

**Carroll Associates and Realty Crown Management Corp., Petitioner and Factory & Building Employees Union, Local 187.** Case AO-281

October 31, 1990

ADVISORY OPINION

BY CHAIRMAN STEPHENS AND MEMBERS  
CRACRAFT, DEVANEY, OVIATT, AND  
RAUDABAUGH

On September 25, 1990, Carroll Associates and Realty Crown Management Corp. (Realty Crown) jointly filed a petition for an advisory opinion with the Board, pursuant to Sections 102.98 and 102.99 of the Board's Rules and Regulations, seeking to determine whether the Board would assert jurisdiction over their operations.

In pertinent part, the petition alleges as follows:

1. There is currently pending before the New York State Labor Relations Board (the SLRB) a petition—Case No. SE-57666—filed by Factory & Building Employees Union, Local 187 (the Union) seeking to be certified as the bargaining representative for the superintendent employed by Carroll Associates at its apartment building facility located at 1587 Carroll Street, Brooklyn, New York.

2. Realty Crown is managing agent for several residential apartment buildings in the City of New York, including the facility at 1587 Carroll Street, Brooklyn, New York, owned by Carroll Associates, where it performs such services as operating, maintaining, and repairing apartments, collecting rents from tenants, purchasing supplies, and performing all financial record-keeping and reporting obligations. It is also responsible for the hiring and supervision of employees who perform the building services provided to tenants.

3. Realty Crown is a joint employer with Carroll Associates and with the owners of the other residential apartment facilities it manages. During the 12 months preceding the filing of the petition, the total gross rental revenues derived from the apartment facilities managed by Realty Crown exceeded \$500,000<sup>1</sup> and, during

<sup>1</sup>The annual gross rental revenues received from apartment buildings managed by Realty Crown during the 12-month period preceding the filing of the petition are alleged to be as follows: Hotel St. George in New York, New York (in excess of \$2 million); 1587 Carroll Street (in excess of \$170,000); 1544-48 President Street, Brooklyn, New York (in excess of \$120,000); 1014

the same period, Realty Crown purchased goods, supplies, commodities, and services valued in excess of \$50,000 which originated outside the State of New York.

4. The Union neither admits nor denies the above commerce data, and the SLRB has made no findings with respect thereto.

5. There is no representation or unfair labor practice proceeding involving the same dispute currently pending before the Board.

Although all parties have been served with a copy of the petition for an advisory opinion, none has filed a response as permitted by Section 102.101 of the Board's Rules and Regulations.

Having duly considered the matter, the Board is of the opinion that it would assert jurisdiction over the Petitioner's operations. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential apartments.<sup>2</sup> In determining whether an employer of this type satisfies its jurisdictional standard, the Board's practice is to aggregate the gross revenues derived from all residential buildings managed by the employer.<sup>3</sup> As the petition here alleges that the total gross revenues derived from the residential properties managed and controlled by Realty Crown exceeds \$500,000, assuming as alleged that it is a joint employer with respect to those properties, Realty Crown clearly satisfies the Board's discretionary jurisdictional standard. Further, as the petition alleges that Realty Crown's out-of-state purchases exceeds \$50,000, Realty Crown also satisfies the Board's statutory jurisdictional standard.

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Petitioner's operations.<sup>4</sup>

Park Place, Brooklyn, New York (in excess of \$60,000); 1553 Union Street, Brooklyn, New York (in excess of \$50,000).

<sup>2</sup>See *Parkview Gardens*, 166 NLRB 697 (1967); *Penn-Keystone Realty Corp.*, 191 NLRB 800 (1971).

<sup>3</sup>*A. J. Clarke Management Corp.*, 249 NLRB 1143 (1980).

<sup>4</sup>The Board's advisory opinion proceedings under Sec. 102.98(a) of the Board's Rules and Regulations are designed primarily to determine whether an employer's operations meet the Board's "commerce" standards for asserting jurisdiction. Accordingly, the instant advisory opinion is not intended to express any view as to whether the Board would, under Sec. 9(c) of the Act, certify the Union as the representative of the unit petitioned for in the SLRB proceeding. See generally Sec. 101.40(e) of the Board's Rules and Regulations.